

Amendments to Senate Bill No. 187
1st Reading Copy

Requested by Senator Jim Shockley

For the Senate Judiciary Committee

Prepared by Valencia Lane
January 25, 2011 (12:53pm)

1. Title, line 8.

Following: "SECTIONS"

Insert: "46-8-101,"

2. Page 1, line 12.

Following: line 11

Insert: "Section 1. Section 46-8-101, MCA, is amended to read:

"46-8-101. **Right to counsel.** (1) During the initial appearance before the court, every defendant must be informed of the right to have counsel and must be asked if the aid of counsel is desired.

(2) If Except as provided in subsection (3), if the defendant desires assigned counsel because of financial inability to retain private counsel and the offense charged is a felony or the offense is a misdemeanor and incarceration is a sentencing option if the defendant is convicted, the court shall order the office of state public defender, provided for in 47-1-201, to assign counsel to represent the defendant without unnecessary delay pending a determination of eligibility under the provisions of 47-1-111.

(3) If the defendant desires assigned counsel because of financial inability to retain private counsel and the offense charged is a misdemeanor and incarceration is a sentencing option if the defendant is convicted, during the initial appearance the court may order that incarceration not be exercised as a sentencing option if the defendant is convicted. If the court so orders, the court shall inform the defendant that the assistance of counsel at public expense through the office of state public defender is not available and that time will be given to consult with an attorney before a plea is entered. If incarceration is waived as a sentencing option, a public defender may not be assigned."

{ Internal References to 46-8-101:

ok 46-7-102 ok 47-1-104 } "

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